

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

THIS DECISION DESIGNATES FORMER BENEFIT
DECISION NO. 6527 AS A PRECEDENT
DECISION PURSUANT TO SECTION
409 OF THE UNEMPLOYMENT
INSURANCE CODE.

In the Matter of:

THEIMA L. BROUSSARD
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-268

FORMERLY BENEFIT DECISION No. 6527
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S.S.A. No.

LOCKHEED AIRCRAFT CORPORATION
(Employer-Appellant)
Industrial Relations Division

Employer Account No.

Referee's Decision
No. LA-25389

STATEMENT OF FACTS

The claimant was employed by this employer-appellant on June 25, 1951. Due to a serious illness, she was compelled to leave her work and was placed on a prolonged leave of absence on September 12, 1955, her last day of work having been September 9, 1955. That medical leave of absence was extended upon the medical certification of her physician from January 15, 1956 through March 1, 1956. The claimant was informed by letter from the employer on February 28, 1956 that her leave of absence would expire on March 12, 1956. If she was unable to return to work on that date, she should contact the personnel office of the employer. In response to that letter, the claimant communicated with the personnel office of the employer on or about March 12, 1956 and informed such office that she had not been released by her physician as able to return to work and that she did not know at that time when she would be able to return to work. The claimant was instructed to submit a medical certificate indicating the expected duration of her illness. Before the claimant was able to obtain a medical certificate from her physician, the employment

relationship was terminated by the employer on the ground that prolonged leave of absence for physical disability extended for only six months from the first day of absence. The claimant was paid unemployment compensation disability benefits by the voluntary plan through March 14, 1956. She was released by her physician as able to return to light work on April 30, 1956.

In addition to such employment, the claimant had worked for a janitorial service for two hours a night commencing in July, 1955. The evidence respecting her termination from that employment is in conflict: the claimant stating that such employment was terminated on October 28 or 29, 1955, and such employer stating by letter that the claimant had left their employ on February 15, 1956 because she was physically unable to continue working. In any event, the fact is established that she was actually engaged in such work after she had been given her leave of absence by this employer-appellant in September, 1955.

The claimant registered for work and filed a claim for benefits April 29, 1956. The department issued a determination and ruling to the appellant under sections 1256 and 1030 of the Unemployment Insurance Code, respectively, holding that the claimant had voluntarily left her most recent work without good cause. The referee's decision reversed the determination and ruling of the department.

The question raised by the appeal is: Who was the employer by whom the claimant was last employed within the meaning of section 1327 of the code?

REASONS FOR DECISION

We have previously held that, if a person is on an authorized leave of absence and is not performing services for and is not in receipt of wages from the employer, he is unemployed within the meaning of section 1252 of the code (Benefit Decisions Nos. 5857, 6061, and 6464).

The claimant was unemployed as far as this appellant was concerned during the term of the authorized leave of absence but performed "work" for the janitorial service

company after the leave had been granted by the appellant. Therefore, the most recent "work" of the claimant, within the meaning of section 1256 of the code, was that performed for the janitorial service company (Benefit Decisions Nos. 5263, 5364, 5697, 6277 and 6451).

Since it does not appear from the record that notice was given to the employer for whom the claimant performed her most recent work, the referee's decision and the department's determination and ruling are set aside and the entire matter returned for appropriate action by the department (Benefit Decision No. 6451).

DECISION

The decision of the referee and the determination and ruling of the department are set aside and the matter remanded to the department for appropriate action.

Sacramento, California, March 29, 1957.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

MICHAEL B. KUNZ, Chairman

GLENN V. WALLS

ARNOLD L. MORSE

Pursuant to section 409 of the Unemployment Insurance Code, the above Benefit Decision No. 6527 is hereby designated as Precedent Decision No.

Sacramento, California, March 16, 1976.

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

DON BLEWETT, Chairperson

MARILYN H. GRACE

CARL A. BRITSCHGI

HARRY K. GRAFE

RICHARD H. MARRIOTT